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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,444	09/30/2003	Matthias Giese	103-001PUS	7837

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GRUND INTELLECTUAL PROPERTY GROUP
NIKOLAISTRASSE 15
MUNICH, 80802
GERMANY

EXAMINER	
HUMPHREY, LOUISE WANG ZHIYING	
ART UNIT	PAPER NUMBER
1648	

MAIL DATE	DELIVERY MODE
06/04/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.	Applicant(s)	
	10/675,444	GIESE, MATTHIAS	
	Examiner	Art Unit	
	LOUISE HUMPHREY	1648	

All participants (applicant, applicant's representative, PTO personnel):

(1) *Louise Humphrey, Examiner*.

(2) *Zachariah Lucas, Supervisory Examiner*.

(3) *Valerie Neymeyer-Tynkov, Reg. No. 46,956*.

(4) _____.

Date of Interview: *01 June 2010*.

Type: a)☒ Telephonic b)☐ Video Conference
c)☐ Personal [copy given to: 1)☐ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☒ No.
If Yes, brief description: _____.

Claim(s) discussed: _____.

Identification of prior art discussed: *Tobiasch et al. and Snijder et al. articles*.

Agreement with respect to the claims f)☐ was reached. g)☐ was not reached. h)☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: *See Continuation Sheet*.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Louise Humphrey/ Examiner, Art Unit 1648	/Zachariah Lucas/ Supervisory Examiner, Art Unit 1648

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
 (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:
--Applicant's representative, Attorney Neymeyer-Tynkov, traversed the outstanding 103 rejection over the Tobiasche (2001) and Snijder (1999) references by arguing that the Office made an error in the Final Action mailed on 19 March 2010 by maintaining the 103 rejection and stating that the amount of immune response generated by a vector expressing both ORF5 and ORF7 is actually 70% when including the neutralizing titer. See Table 2 on page 195 of the Tobiasch reference.
--In response to the allegation of error, Examiner Humphrey clarified that the Examiner did not interpret the data in the same way as applicants because of the prior art disclosure that the amount of measured immune response induced by the combined ORF5-ORF7 vector is either 30% (exluding the neutralizing titer 1:20) or 70% (including the neutralizing 1:20) as compared to the 90% (exluding the neutralizing titer 1:20) or 100% (including the neutralizing 1:20) immune response induced by the individual truncated ORF5 expression vector. Therefore, Examiner did not consider this summary of the prior art as an error since the establishement of a case of obviousness did not hinge on this information.
--Attorney Neymeyer-Tynkov argued that the lower percentage showed that the combined ORF5-7 was not as "good" as the individual ORF5 or ORF7 vector. Examiner Humphrey respectfully disagreed because the lower percentage of the immune response elicited by combined ORF5-7 as compared to ORF5 or ORF7 alone does not correlate to an inferior vaccine composition. Rather than the higher percentage of immune response specific for only one virion component generated by either ORF5 or ORF7 individually, the lower percentage of immune response induced by the combined ORF5-7 vector can recognize two virion components.
--Examiner Humphrey re-iterated that the motivation to combine ORF2 with the ORF5-7 in a vector as taught by the Tobiasch et al. article is provided by the Snijder et al. reference, which discloses ORF2 as containing a novel structural protein of arteriviruses essential for the production of infectious progeny virus (see Abstract). The Snijder et al. reference also discloses that ORF5 and ORF7 encode major structural components of the virus particle (page 6335, right column, starting the 6th last line of the upper paragraph. Thus, it would be obivous to one of ordinary skill in the art at the time the invention was made to modify the Tobiasch composition of an expression vector encoding ORF5-7 by adding one more structural antigen encoded by ORF2 to induce a broad-range immune response against more arteriviral structural components.
--Attorney Neymer-Tynkov disagreed with the Office position that the lower percentage of immune response induced by the double-antigen encoding ORF5-7 vector is not an objective evidence for an inferior vaccine composition as compared to the single-antigen encoding ORF5 or ORF7 vector and thus is not teaching away from combining ORF2, ORF5 and ORF7 into one vector, even though Examiner Humphrey explained that the protective ability of a vaccine composition is not correlated with the percentage of antigen-specific immune response induced by individual ORF as shown in Table 2 on page 195 of the Tobiasch reference.
--Examiners indicated that the Office is open to consider any new arguments submitted by the Applicant.

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